

From: Ken Jowdy <kj@legacyproperties.com>
 Subject: Fwd: SPAM-MED: Phil Kenner
 Date: December 18, 2011 7:57:57 AM MST
 To: Ken Jowdy <kj@legacyproperties.com>

Harvey's extortion
 threat to Kenner's
 attorney copies
 Jowdy...

Harvey -- like the EDNY 6 years
 later -- claims Hawaii loan agmt
 as a FORGERY -- despite
 Harvey using the loan agmt in
 Jowdy's December 2010
 Nevada trial defense as a
 defense exhibit...

From: "tharvey@harveyandhackett.com" <tharvey@harveyandhackett.com>
 Subject: RE: SPAM-MED: Phil Kenner
 Date: April 29, 2009 2:13:02 PM MDT
 To: "pia@amlawidaho.com" <pia@amlawidaho.com>
 Cc: Ken Jowdy <kj@legacyproperties.com>

Dear Paul,

Thanks for your note. I agree that any settlement discussions would have to involve/include all parties, investors, lenders or anyone who could make a claim.

However, your statement that "the only guys who are suing Phil are the guys who are broke" tends to make me think you don't understand the enormity of the situation Phil is facing.

It is likely that Phil and Tommy Constantine are under investigation by the FBI in both California and Arizona. It seems that Phil has been an unlicensed investment adviser since on or about 2001. Phil used credit lines of one player to pay off other players' credit lines. Phil paid Tommy Constantine over \$2 million in consulting fees to "find loans" for Phil. Yet, Tommy Constantine submits a declaration in federal court saying he doesn't have any involvement with Phil other than Phil invested in some of Tommy's companies. Phil swears he never owned any properties with Tommy or Bob Guadet, but public records contradict that fact. A federal Judge has thrown out Phil's case against Kenny and is basically daring Phil to refile and put forth a document that is allegedly a forgery (hint: criminal referral). I could literally go on for pages and pages. These facts don't have anything to do with "guys who are broke". These facts demonstrate a couple of guys who think they can say anything to anybody at any time and that there are no repercussions. However, they are being hoisted on their own petard.

The Daily News has been inundated with new information about Tommy and Phil. In the past, the paper has done series on a subject over a period of time, and this story, i.e., Tommy and Phil being con men, seems "to have legs", i.e., the paper will probably do a series on their misdeeds.

What I am trying to accomplish is resolve Kenny's exposure and try to salvage some projects. To that end, I am interested in settling with both Phil and his players. The only way that is going to happen is by (i) wiping out Phil's equity in Cabo and El Rosario and (ii) giving some equity and money to the investors. I submit that I will be able to accomplish that through litigation (especially since Phil says in the Arizona case that he "loaned" Kenny the money, though he was given 38% equity in the project?), but the same is costly and time-consuming. Thus, my suggestion we speak.

I am not sure of the total exposure Phil has outside of the Cabo and El Rosario projects, but we should be speaking to figure out how that impacts everyone and how to even get everyone to the table for a global settlement.

Paul, this is a one (1) time offer. I suspect we are Phil's only life-line and can help resolve a lot of his exposure. If he or you thinks his only exposure are "guys that are broke", then fuck it, let him rot in jail and you can visit him. Make no mistake, any settlement will not alleviate any criminal liability for anyone, but it will certainly help under the sentencing guidelines if Phil is in fact sentenced some day.

Here is a reality check: Phil has substantial criminal and civil liability and has little or no access to money. In my opinion He has submitted false documents and sworn out false statements in a federal court. It is likely that at least 2 offices of the FBI is investigating him and he likely faces a probe by the SEC for being an unlicensed investment adviser. His house of cards is caving in and people who he thought would corroborate his statements are now running for cover.

Sentenced because of
 claiming the loans to Jowdy
 were real?

Kenner has NEVER been
 an investment advisor...

Jowdy admitted to the loans in his Jan 2010
 CA depo, his March 2010 FBI proffer -- and
 the government admitted the loans post
 EDNY trial during forfeiture hearings
 (FORF-44)...

ED-00003068

depo, his March 2010 FBI proffer -- and the government admitted the loans post EDNY trial during forfeiture hearings (FORF-44)...

If you (forget about your client) think this is about "guys that are broke", then we have nothing to talk about and when you get back from Mars you can give me a call. Indeed, why is you client quit-claiming deeds to other people if this is just about "guys that are broke".

As an aside, because Phil has done such a great job of litigating over the past few months, you may want to express to him that his "blame Ken Jowdy" defense is a fucking joke, almost as funny as "a few guys that are broke".

So, if you really want to talk, I need to hear more than your "all ears". How about this: "Tom, your right, the papers are killing my client, the FBI is probably investigating him, he is out of money. Can we start discussing ways to get Phil's clients (you know the guys that Phil had a fiduciary duty to) some of their money back. He is ready to have serious discussions, and the only thing that would prevent settlement talks is that we need everyone at the table. I would love the opportunity to discuss and welcome your help". If this is not your attitude or Phil's attitude, then I am sure Phil will get exactly what he deserves

Lastly, the bank that financed the planes owned by Diamante Air has been talking to Ken and advised that if they had the log books that they could sell the planes without a substantial shortfall being owed on the personally guarantee (i.e. Phil and Sergei). Apparently Phil isn't returning the bank's calls. There is a chain of correspondence that demonstrates Phil and Tommy Constantine (or do I say Hornorvitis) received the log books. If Phil wants to help alleviate any liability for Sergei, he may want to address this issue.

Sincerely,

Tom Harvey

Nolan and Moreau
were BROKE...

Kenner had millions in his
personal bank account in
April 2009...This is the
same echoed LIE that
Komatireddy claimed in
her Rebuttal
Summation...prejudicing
Kenner to the jury.

----- Original Message -----

Subject: RE: SPAM-MED: Phil Kenner

From: <pja@amlawidaho.com>

Date: Wed, April 29, 2009 9:28 am

To: <tharvey@harveyandhackett.com>

Tom - While I understand your desire to help Ken and Phil resolve their differences, there can be no agreement between them unless Meeks and his gang agree to participate in the discussions. Obviously making Phil's guys whole in some way is the goal and will likely end all of the lawsuits, since the only guys who are suing Phil are the guys who are broke. I'm all ears if it means that our discussions can lead to everyone agreeing to a global settlement.